

UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America

v.

FLOYD JUNIOR POWELL, a/k/a "Dick"

Date of Previous Judgment: February 15, 2001

(Use Date of Last Amended Judgment if Applicable)

)

)

) Case No: 5:99CR12-6

) USM No: 14740-058

) No attorney

) Defendant's Attorney

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☐ the defendant ☐ the Director of the Bureau of Prisons ☒ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months **is reduced to** _____.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level:	<u>43</u>	Amended Offense Level:	<u>41</u>
Criminal History Category:	<u>I</u>	Criminal History Category:	<u>I</u>
Previous Guideline Range:	<u>240</u> to <u>240</u> months	Amended Guideline Range:	<u>240</u> to <u>240</u> months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☐ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
- ☒ Other (explain): No reduction, as the original sentence in this case was limited to a statutory maximum of 20 years (240 months) by *Apprendi v. New Jersey*, which then became the applicable guideline range, per USSG §5G1.1(a). The revised guideline range is similarly limited and the guideline range remains unchanged.

III. ADDITIONAL COMMENTS

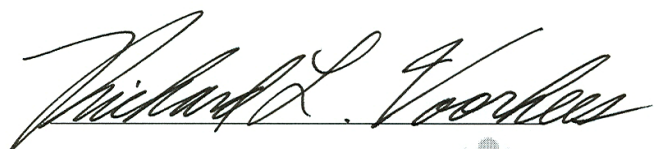
****Counts One and Seven were grouped for guideline calculation purposes pursuant to USSG §3D1.2(d).**

Except as provided above, all provisions of the judgment dated February 15, 2001, shall remain in effect.

IT IS SO ORDERED.

Order Date: April 16, 2010

Effective Date: _____
(if different from order date)



Richard L. Voorhees
United States District Judge

